

FILED IN CHAMBERS
U.S.D.C. Atlanta

MAR 06 2012

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JAMES N. HATTEN, Clerk
By: *Anita Lewis*
Deputy Clerk

JAMES DEMARCO BOGAN, :
Petitioner, :
: :
v. : CIVIL ACTION NO.
: 1:12-CV-636-TWT-ECS
STATE OF GEORGIA et al., :
Respondents. :
:

FINAL REPORT AND RECOMMENDATION

James Demarco Bogan has filed another "Petition for Warrant of Removal," seeking to remove criminal indictments that were filed against him in Fulton County Superior Court to this Court. [Doc. No. 1]. This mirrors his earlier attempt to remove those indictments in a recent case he filed under a different name. See Bey v. Howard, 1:11-CV-2550-TWT (N.D. Ga. Aug. 2, 2011) ("Bogan II"). And this mirrors Bogan's similar attempt to remove a criminal action from Gwinnett County to this Court in 2009. See State Court of Gwinnett v. Bogan, No. 1:09-CV-1562-TWT (N.D. Ga. July 10, 2009) ("Bogan I").¹

In Bogan I, the Honorable Thomas W. Thrash entered an Order stating as follows:

This is a removal action. It is before the Court for a frivolity determination. The Defendant

¹ The Plaintiff has filed other meritless lawsuits. See Bey v. Johnson Freeman, LLC, No. 1:10-CV-1426-TWT (N.D. Ga. May 11, 2010); Bey v. Barrie, No. 1:10-CV-1321-TWT (N.D. Ga. Apr. 30, 2010).

is attempting to remove his criminal action from the State Court of Gwinnett County. This Court would not have original jurisdiction of the criminal action, and it is not removable. This action is remanded to the State Court of Gwinnett County and/or dismissed.

Bogan I [Doc. No. 5 therein]. Bogan II was closed on the same basis. Bogan II [Doc. Nos. 2, 3 therein].

The undersigned **RECOMMENDS** that this case be **SUMMARILY REMANDED** to the Fulton County Superior Court, see 28 U.S.C. § 1446(c)(4), and/or **DISMISSED** for the same reasons.

Solely for the purpose of remand and/or dismissal, the Plaintiff is **GRANTED** permission to proceed in forma pauperis.

The Clerk is **DIRECTED** to terminate the referral of this case to the undersigned.

SO RECOMMENDED, ORDERED, AND DIRECTED, this 5th day of March, 2012.


E. CLAYTON SCOFIELD III
UNITED STATES MAGISTRATE JUDGE

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MAR 06 2012

JAMES N. HATTON, Clerk
By: *Angela L. Smith*
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
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JAMES DEMARCO BOGAN, :
Petitioner, :
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v. : CIVIL ACTION NO.
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STATE OF GEORGIA et al., :
Respondents. : :

ORDER FOR SERVICE OF REPORT AND RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE

Attached is the report and recommendation of the United States Magistrate Judge in this action in accordance with 28 U.S.C. § 636(b)(1) and this Court's Civil Local Rule 72. Let the same be filed and a copy, together with a copy of this Order, be served upon counsel for the parties.

Pursuant to 28 U.S.C. § 636(b)(1), each party may file written objections, if any, to the report and recommendation within fourteen (14) days of service of this Order. Should objections be filed, they shall specify with particularity the alleged error or errors made (including reference by page number to the transcript if applicable) and shall be served upon the opposing party. The party filing objections will be responsible for obtaining and filing the transcript of any evidentiary hearing for review by the District Court. If no objections are filed, the report and recommendation may be adopted as the opinion and order of the District Court and any appellate review

of factual findings will be limited to a plain error review.

United States v. Slay, 714 F.2d 1093 (11th Cir. 1983).

The Clerk is **DIRECTED** to submit the report and recommendation with objections, if any, to the District Court after expiration of the above time period.

SO ORDERED, this 5th day of March, 2012.



E. CLAYTON SCOFIELD III
UNITED STATES MAGISTRATE JUDGE